SHELBYVILLE INDIANA

Department of Law

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TRENT MELTZER
CITY ATTORNEY

RECEIVED
AUG 02 2012
INDIANA UTILITY
REGULATORY COMMISSION

Director of the Water and Wastewater Division
Indiana Utility Regulatory Commission
PNC Center
101 West Washington Street
Suite 1500 E
Indianapolis, Indiana 46204

Via First Class Mail

RE: Shelbyville's Petition for Approval of Rate and Charge Difference

Director: August 1, 2012

Enclosed please find Petition for Approval of Rate and Charge Difference Between Property Within and Property Outside the Corporate Boundaries of Shelbyville, Indiana, as well as my Appearance therein. Also included are four copies.

Please let me know if you need any additional information.

Sincerely,

Trent Meltzer

RECEIVED
AUG 02 2012
INDIANA UTILITY
REGULATORY COMMISSION

STATE OF INDIANA
UTILITY REGULATORY COMMISSION

PETITION FOR APPROVAL OF RATE AND CHARGE DIFFERENCE BETWEEN PROPERTY WITHIN AND PROPERTY OUTSIDE THE CORPORATE BOUNDARIES OF SHELBYVILLE, INDIANA

APPEARANCE BY PETITIONING PARTY

1. The undersigned attorney and all attorneys listed on this form now appear in this cause for the following party members:

City of Shelbyville, Indiana

2. Applicable attorney information for service and for case information is as follows:

Name: Trent Meltzer, Atty Number: 28685-73
Address: City Attorney
City of Shelbyville
44 West Washington St.
Shelbyville, IN 46176

Phone: (317) 398-6624
FAX: (317) 392-5143

3. There are other party members: NO.

4. I will accept service by FAX at the above noted number: **NO.**

Respectfully Submitted,
CITY OF SHELBYVILLE, INDIANA

By: _____
Trent Meltzer

RECEIVED

AUG 02 2012

INDIANA UTILITY
REGULATORY COMMISSION

STATE OF INDIANA
UTILITY REGULATORY COMMISSION

PETITION FOR APPROVAL OF RATE AND CHARGE DIFFERENCE BETWEEN PROPERTY WITHIN AND PROPERTY OUTSIDE THE CORPORATE BOUNDARIES OF SHELBYVILLE, INDIANA

Pursuant to Indiana Code 8-1.5-3-8.3(c), the City of Shelbyville, Indiana, requests the Director of the Water and Wastewater Division of the Indiana Utility Regulatory Commission ("Commission") to approve the rate and charge difference between property within and property outside the corporate boundaries of the City of Shelbyville. In support of its request the City of Shelbyville states:

1. The ordinance setting rates and charges for property within and property outside the municipality's corporate boundaries took effect on August 26, 1958.

2. Attached as "Exhibit A" is a copy of the Ordinance.

3. The works that is the subject of the ordinance is a wastewater utility works.

4. The percentage difference between rates and charges imposed on users of the works for service to property located outside the corporate boundaries of the municipality and to property located within the corporate boundaries is fifty percent (50%) ("Section 2" on the fifth page of "Exhibit A").

5. Trent Meltzer is counsel of record for Petitioners in this matter and is duly authorized to accept service of papers in this cause on behalf of Petitioners.

Respectfully Submitted,

CITY OF SHELBYVILLE,

By_____
Trent Meltzer, #28685-73
Shelbyville City Attorney
44 West Washington Street
Shelbyville, IN 46176

Verification

I, Trent Meltzer, affirm under penalties for perjury that the foregoing representations are true to the best of my knowledge, information, and belief.

Signed_____, Shelbyville City Attorney
Date 8/1/12

Exhibit A

ORDINACE NO 1176

An Ordinance fixing the schedule of rates and charges to be collected by the City of Shelbyville, Indiana, from the owners of property served by the sewage works of said City, and other matters connected therewith.

WHEREAS, the City of Shelbyville has heretofore constructed and has in operation a sewer system for the purpose of collecting sewage and conveying the same away from the premises where produced; and

WHEREAS, the City has heretofore authorized the construction, maintenance, and operation of works for the collection, treatment, and disposal of sewage, under the provisions of Chapter 61 of the Acts of the General Assembly of the State of Indiana for the year 1932, and the Acts amendatory thereof and supplemental thereto; and

WHEREAS, the cost of such works and the amount of revenue bonds to finance the same has been determined, and tentative contracts for the construction of said works have been awarded, subject to sale of the said revenue bonds; and

WHEREAS, said Chapter 61 of the Acts of 1932, and the Acts amendatory thereof and supplemental thereto, requires that the rates and charges to be collected for the use of and the service rendered by such sewage works be fixed by ordinance, finally adopted after due notice and public hearing; now, therefore,

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF SHELBYVILLE, INDIANA:

Section 1. For the use of and service rendered by said sewage works, rates and charges shall be collected from the owners of each and every lot, parcel of real estate or building that is connected with the City's sanitary sewerage system or otherwise discharges sanitary sewage, industrial wastes, water or other liquids either directly or indirectly into the sanitary sewerage system of the City of Shelbyville, which rates and charges shall be payable as hereinafter provided and shall be in an amount determinable as follows:

(a) Except as herein otherwise provided, the sewage rates and charges shall be based on the quantity of water used on or in the property, or premises subject to such rates and charges, as the same is measured by the water meter there in use, and shown by the consumption records of the water utility serving the City of Shelbyville and its inhabitants. Said water consumption records shall be analyzed not less than once each year (or period equaling twelve (12) months) to determine the quantities of water used. Sewage service bills shall be rendered once each month (or period equaling a month). Except as herein otherwise provided, the monthly sewage service bill shall be determined by applying the rates hereinafter provided for to the <u>average</u> monthly water consumption of each user during the preceding year (or period equaling twelve (12) months) as shown by said water consumption records. Billing shall be on the basis of two hundred (200) gallon units, and averages resulting in fractions of two hundred (200) gallons shall be raised to the next whole number of two hundred (200) gallons.

At the option of the City, sewage service bills may be based upon the actual water consumption of each user for each month or upon the average monthly water consumption of each user during the previous period of six (6) months.

(b) The monthly sewage service billing shall be computed upon the application of the following rates to the average monthly or the actual monthly water consumption:

First	5,000	gallons used per month @ 60¢ per 1,000 gallons
Next	15,000	gallons used per month @ 40¢ per 1,000 gallons
Next	30,000	gallons used per month @ 35¢ per 1,000 gallons
Next	50,000	gallons used per month @ 30¢ per 1,000 gallons
Next	900,000	gallons used per month @ 20¢ per 1,000 gallons
Over	1,000,000	gallons used per month @ 15¢ per 1,000 gallons

(c) The minimum charge for any service where the user is a metered water consumer shall be based on the size of such water meter, and shall be as follows:

5/8 inch water meter	$ 2.60	per month
3/4 inch water meter	3.75	per month
1 inch water meter	5.25	per month
1 1/2 inch water meter	8.50	per month
2 inch water meter	12.00	per month
3 inch water meter	16.50	per month
4 inch water meter	35.00	per month
6 inch water meter	75.00	per month

provided, however, that the minimum charge shall be based on a meter size of not more than one size smaller than the service line in which the meter is installed.

The minimum charge for any service where the user is not a metered water consumer shall be based on the size of the service connection, but no such charge shall be less than the corresponding minimum monthly meter charge.

(d) In the event two or more residential lots, parcels of real estate, or buildings discharging sanitary sewage, water, or other liquids into the City's sanitary sewerage system, either directly or indirectly, are users of water, and the quantity of water is measured by a single water meter, then in each such case, for billing purposes, the quantity of water used shall be averaged for each user and the minimum charge and the sewage rates and charges shall apply to each of the number of residential lots, parcels of real estate, or buildings served through the single water meter.

(e) In the event two or more dwelling units, such as trailers, apartments, or housekeeping rooms, discharging sanitary sewage, water, or other liquids into the City's sanitary sewerage system, either directly or indirectly, are users of water and the quantity of water is measured by a single water meter, then in such case billing shall be for a single service in the manner set out elsewhere herein, except that an additional charge shall be added thereto, in the amount of Two Dollars and Sixty Cents ($2.60) per month for each dwelling unit over one (1) served through the single water meter. In the case of trailer parks, the number of dwelling units shall be interpreted as the maximum capacity for trailers in said park, plus any other dwelling units served through the meter. A dwelling unit shall be interpreted as a room or rooms or other living space or spaces in which cooking facilities are provided.

(f) In order that there be no sewage service charge to residential water consumers for water used in lawn sprinkling, garden watering, etc., the sewage service billing for each month shall be based on the average monthly quantity of water used or consumed during the preceding year (or period equaling twelve (12) months) adjusted to exclude the months of June, July, August, and September. Averages resulting in fractions of two hundred (200) gallons shall be raised to the next whole number of two hundred (200) gallons in computing the billing. Residential users of water and sewage service for the first time shall be billed the monthly minimum charge until a consumption record covering the months of October, November, December, January, February, March, April, and May is established.

(g) In the event a lot, parcel of real estate, or building discharging sanitary sewage, industrial wastes, water, or other liquids into the City's sanitary sewerage system either directly or indirectly, is not a user of water supplied by the water utility serving the City of Shelbyville, and the water used thereon or therein is not measured by a water meter, or is measured by a water meter not acceptable to the City, then the amount of water used shall be otherwise measured or determined by the City in order to ascertain the rate or charge provided in this ordinance; or the owner or other interested party, at his expense, may install and maintain a meter acceptable to the City for said purpose.

(h) In the event a lot, parcel of real estate, or building discharging sanitary sewage, industrial wastes, water, or other liquids into the City's sanitary sewerage system, either directly or indirectly, is a user of water supplied by the water utility serving the City of Shelbyville, and in addition uses water from another source which is not measured by a water meter or is measured by a water meter not acceptable to the City, then the amount of water used shall be otherwise measured or determined by the City in order to ascertain the rate or charge provided in this ordinance; or the owner or other interested party, at his expense, may install and maintain a meter or meters acceptable to the City for said purpose.

(i) In the event a lot, parcel of real estate, or building discharging sanitary sewage, industrial wastes, water, or other liquids into the City's sanitary sewerage system either directly or indirectly, uses water in excess of the quantity allowed for the applicable minimum charge per month, and it can be shown, to the satisfaction of the City, that a portion of the water as measured by the water meter or meters does not and cannot enter the sanitary sewerage system then the City may determine in such manner and by such method as it may deem practicable the percentage of metered water entering the sanitary sewerage system. Such percentage, when so determined, shall then constitute the basis of sewage service charges; provided, however, that the City in its discretion may require or permit the installation of additional meters at the expense of the owner or other interested party in such a manner as to determine the quantity of water actually entering the sewerage system; in which case, the quantity of water used to determine the sewage service charge shall be the quantity of water actually entering the sanitary sewerage system as so determined.

(j) In order that the rates and charges may be justly and equitably adjusted to the service rendered, the City shall have the right to base its charges not only on volume but also on the strength and character of the sewage and wastes which it is required to treat and dispose of. The City shall have the right to measure and determine the strength and content of all sewage and wastes discharged, either directly or indirectly, into the City's sanitary sewerage system, in such manner and by such method as it may deem practicable in the light of the conditions and attending circumstances of the case, in order to determine the proper charge.

Extra charges based on the strength of the sewage and liquid wastes shall be made on the following basis:

For Suspended Solids in excess of two (2) pounds for each one thousand (1,000) gallons of sewage and wastes, an additional charge of fifteen cents ($0.15) per one thousand (1,000) gallons shall be made for each such excess pound or fraction thereof.

For Five-day Biological Oxygen Demand in excess of one and seventy-five hundredths (1.75) pounds for each one thousand (1,000) gallons of sewage and wastes, an additional charge of fifteen cents ($0.15) per one thousand (1,000) gallons shall be made for each such excess pound or fraction thereof.

To determine the strength of the sewage and wastes, samplings and analyses may be made from time to time whenever it is deemed desirable by the City. After charges have been established, based upon the strength of sewage and wastes, the owner may request reconsideration of these charges by the City by submitting, if requested, analyses of composite samples of the sewage and wastes certified by a Registered Engineer or a graduate chemist subject to such charges. The City may then adjust the charges to the Ordinance rates required by such analysis or may recheck the findings by additional sampling and analysis. Requests for rate adjustment may be submitted no more often than once every twelve (12) months.

The determination of Suspended Solids and Five-day Biochemical Oxygen Demand contained in the waste shall be in accordance with the latest copy of "Standard Methods for the Examination of Water, Sewage and Industrial Wastes," as written by the American Public Health Association, the American Water Works Association, and the Federation of Sewage and Industrial Wastes Association.

(k) For the service rendered to the City of Shelbyville, said City shall be subject to the same rates and charges hereinabove provided, or to charges and rates established in harmony therewith.

(l) Such rates and charges shall be prepared and billed by the City of Shelbyville, and shall be collected in the manner provided by law and ordinance.

(m) The rates and charges may be billed to the tenant or tenants occupying the properties served, unless otherwise requested in writing by the owners; but such billings shall in no wise relieve the owner from liability in the event payment is not made as herein required. The owners of the properties served, which are occupied by tenants, shall have the right to examine the collection records of the City for the purpose of determining whether such rates and charges have been paid by such tenants; provided that such examination shall be made at the office at which said records are kept and during the hours that such office is open for business.

(n) Where a metered water supply is used for fire protection as well as for other uses, the City may, in its discretion, make such adjustments in the minimum charge and in the use charge as may be equitable.

Section 2. The rates and charges fixed herein shall apply to lots, parcels of real estate, and/or buildings located within the limits of the City of Shelbyville. For service rendered by said sanitary sewerage system and sewage treatment works to lots, parcels of real estate, or buildings located outside the limits of the City of Shelbyville, the rates and charges, including minimum charge, shall be one hundred fifty per cent (150%) of those rates and charges established herein, and all other provisions herin set out shall be applicable to such users located outside the City limits.

Section 3. Except as herein otherwise provided, the rates and charges fixed by this ordinance shall become effective and be collected at the time sewage and wastes from the respective users is first directed to the sewage plant for treatment, or beginning with the sewage service billing for the month of June, 1960, whichever is the earlier. These rates and charges shall be extended to and cover any additional premises thereafter served, without the necessity of any hearing or notice.

Section 4. The rates and charges established by this ordinance shall be collected by the City. The Board of Public Works and Safety shall make and enforce such by-laws and regulations as may be deemed necessary for the safe, economical, and efficient management of the City's sewerage system, pumping stations, and sewage treatment works, for the construction and use of house sewers and connections to the sewerage system, and for the regulation, collection, rebating, and refunding of such rates and charges.

Section 5. A tapping charge of seventy-five dollars ($75.00) shall be levied against each lot, parcel of real estate, or building that hereafter connects with the City's sanitary sewer system. In return for this tapping charge, the City shall install a house connection or service connection, extending from the main sewer to the curb line or property line, at the time the main sewer is constructed. Application for such a connection shall be made to the Board of Public Works and Safety at the time of construction, and payment in full shall accompany the application. If the house or service connection is not installed at the time of construction, then the connection shall be installed by the owner under the City's supervision and in accordance with existing ordinances.

In the event that a house connection or service connection is made from any lot, parcel of real estate, or building directly to a sewer, the construction of which is financed by the issuance of revenue bonds, thus precluding any assessment or charge against such lot, parcel of real estate, or building for a "local" or "lateral" sewer, then and in such case an additional connection charge in the following amount shall be levied against said lot, parcel of real estate, or building:

Lot Size (Frontage Along Sewer)	Connection Charge
40 feet	$ 125.00
60 feet	175.00
80 feet	225.00
100 feet	275.00

The minimum connection charge shall be One Hundred and Twenty-five Dollars ($125.00), and the charge for intermediate size lot fronts shall be the charge for the next larger lot size. The maximum connection charge shall be Two Hundred and Seventy-five Dollars ($275.00) Such connection charge levied against such property shall be due and payable in full at the time application is made to the Board of Public Works and Safety for connection to the sewer.

The owner may be granted the privilege, upon application to the Board of Public Works and Safety, of paying the tapping charge and/or connection charge in ten (10) equal annual installments of principal, with interest at six per cent (6%) per annum on the unpaid balance. In the event of application for such deferred payment plan, ten per cent (10%) of the total charge shall accompany such application and the remaining annual payments of principal shall be in an amount equal to the payment which accompanies the application. In the event the tapping charge or connection charge is not paid as required, such charge shall be collectible in the manner provided by statute.

Section 6. For the purpose of this ordinance, the terms "sanitary sewage" and "industrial wastes" shall be defined as follows:

(a)"Sanitary sewage" is hereby defined as the waste from water closets, urinals, lavatories, sinks, bath tubs, showers, household laundries, basement drains, garage floor drains, bars, soda fountains, cuspidors, refrigerator drips, drinking fountains, and stable floor drains, and all other water carried wastes except industrial wastes and air conditioning waste water.

(b) "Industrial wastes" are hereby defined as being the liquid waste resulting from any commercial, manufacturing, or industrial operation or process, except uncontaminated and unpolluted clear water.

Section 7. The Board of Public Works and Safety is hereby authorized to prohibit dumping of wastes into the City sewerage system which, in its discretion, are deemed harmful to the operation of the sewage treatment works of said City, or to require methods affecting pre-treatment of said wastes to reduce the characteristics of the waste satisfactory to the Board of Public Works and Safety.

Section 8. The sections and subdivisions of this ordinance shall be deemed to be separate and several and if any part thereof shall be declared to be invalid, the same shall not affect any other portion.

Section 9. This ordinance shall be in full force and effect from and after its passage and signing by the Mayor.

Passed and adopted by the Common Council of the City of Shelbyville on the 26th day of August, 1958

John D. Anderson
Presiding Officer

ATTEST:

Eleanor J. Ratcliff
Clerk-Treasurer

Presented by me to the Mayor of the City of Shelbyville on the 26th day of August, 1958, at the hour of 9 P. M.

Eleanor J. Ratcliff
Clerk-Treasurer

This ordinance approved and signed by me on the 26th day of August, 1958, at the hour of 9, P., M.

John D. Anderson
Mayor

SEWAGE RATES AND CHARGES

§ 50.020 COLLECTION.

(A) For the use of and service rendered by the sewage works, rates and charges shall be collected from the owners of each and every lot, parcel of real estate, or building that is or could be connected with the city's sewerage system or otherwise discharges sanitary sewage, industrial wastes, water, or other liquids either directly or indirectly into the sewerage system of the city.

(B) These rates and charges shall be payable, and shall be in amount determined by this subchapter.

('81 Code, § 50.20) (Ord. 1678, passed 1-8-79; Am. Ord. 1801, passed 6-19-84; Am. Ord. 1821, passed 7-1-85; Am. Ord. 1862, passed 7-21-86; Am. Ord. 10-2652, passed 7-7-10) Penalty, see § 50.999

Cross-reference:

Billing procedure, see § 50.036

Enforcement of payment, see § 50.037

§ 50.021 BASIS OF RATES.

(A) Except as otherwise provided in this subchapter, the sewerage rates and charges shall be based on the quantity of water used on or in the property or premises subject to the rates and charges, as indicated by the consumption records of the water utility serving the city and its inhabitants.

(1) Water consumption records shall be analyzed not less than once each year (or period equaling 12 months), to determine the quantities of water used.

(2) Sewage service bills shall be rendered once each month (or period equaling a month). Except as otherwise provided by this subchapter, the monthly sewage service bill shall be determined by applying the rates provided for in § 50.022 to the average monthly water consumption of each user during the preceding year (or period equaling 12 months), as shown by the water consumption records.

(3) Billing shall be on the basis of 200-gallon units, and averages resulting in fractions of 200 gallons shall be raised to the next whole number of 200 gallons.

(B) At the option of the city, sewage service bills may be based upon the actual water consumption of each user for each month, or upon the average monthly water consumption of each user during the previous period of six months.

(`81 Code, § 50.21) (Ord. 1678, passed 1-8-79) Penalty, see § 50.999

§ 50.022 RATE SCHEDULE.

The monthly sewage service billing shall be computed based on the Schedule of Wastewater Rates and Charges in § 50.023.

(`81 Code, § 50.22) (Ord. 1678, passed 1-8-79; Am. Ord. 1815, passed 12-8-84; Am. Ord. 1831, passed 7-1-85; Am. Ord. 1862, passed 7-21-86; Am. Ord. 04-2500, passed 6-9-04; Am. Ord. 10-2652, passed 7-7-10) Penalty, see § 50.999

Cross-reference:

Minimum charges, see § 50.023

Statutory reference:

Authority to establish rates and charges, see I.C. 36-9-23-25

§ 50.023 MINIMUM CHARGES.

(A) The minimum charge for any sewage service shall be based on the size of the water meter, and shall be as follows:

SCHEDULE OF WASTEWATER RATES AND CHARGES					
		October 1, 2010	***July 1, 2011***	***July 1, 2012***	***July 1, 2013***
	Area Ratio	***Phase I***	***Phase II***	***Phase III***	***Phase IV***
Monthly Base Charge					

5/8-inch meter	1.0	$13.39	$14.73	$16.20	$17.82
3/4-inch meter	1.4	$18.25	$20.07	$22.07	$24.28
1-inch meter	2.5	$31.51	$34.66	$38.12	$41.93
1 1/4-inch meter	4.0	$49.63	$54.59	$60.05	$66.06
1 1/2-inch meter	5.8	$71.41	$78.55	$86.40	$95.04
2-inch meter	10.0	$122.09	$134.30	$147.73	$162.51
3-inch meter	23.0	$279.11	$307.02	$337.72	$371.49

SCHEDULE OF WASTEWATER RATES AND CHARGES

		October 1, 2010	***July 1, 2011***	***July 1, 2012***	***July 1, 2013***
	Area Ratio	***Phase I***	***Phase II***	***Phase III***	***Phase IV***
Monthly Base Charge					
4-inch meter	40.0	$484.44	$532.88	$586.16	$644.78
6-inch meter	91.0	$1,100.43	$1,210.47	$1,331.51	$1,464.66
Flow Rate Charge (per 1,000 gallons)		$2.14	$2.35	$2.59	$2.84
Industrial Pretreatment Program (per 1,000 gallons)		$0.34	$0.37	$0.41	$0.45
Unmetered Residential (per month per equivalent dwelling unit)		$25.41	$27.95	$30.75	$33.82
Tapping Charge					
Residential (per ERU)		$750.00	$750.00	$750.00	$750.00
Trailer		$300.00	$300.00	$300.00	$300.00

Apartments (first 2)		$750.00	$750.00	$750.00	$750.00
Apartments (above 3, per apartment)		$300.00	$300.00	$300.00	$300.00
Industrial/ Commercial					
5/8-inch meter		$750.00	$750.00	$750.00	$750.00
1-inch meter		$1,875.00	$1,875.00	$1,875.00	$1,875.00
1 1/2-inch meter		$4,350.00	$4,350.00	$4,350.00	$4,350.00
2-inch meter		$7,500.00	$7,500.00	$7,500.00	$7,500.00
3-inch meter		$17,250.00	$17,250.00	$17,250.00	$17,250.00
4-inch meter		$30,000.00	$30,000.00	$30,000.00	$30,000.00
Lateral Tap Inspection Charge		$25.00	$25.00	$25.00	$25.00

(B) The minimum charge shall be based on a meter size of not more than one size smaller than the service line in which the meter is installed.

(C) The minimum charge for any sewage service where the user is not a metered water user shall be based on the size of the service connection, but no charge shall be less than the corresponding minimum monthly meter charge.

(D) Sewage treatment service charges are to be billed at the above rates on the basis of the quantity of water used from the water utility, as indicated by the metered water consumption records of the Indiana Cities' Water Corporation, Inc., or, in cases where there are no water meters or consumption records, then the quantity of water used may be determined in the manner that the Board of Public Works and Safety may elect.

(`81 Code, § 50.23) (Ord. 1678, passed 1-8-79; Am. Ord. 1801, passed 6-19-84; Am. Ord. 1831, passed 7-1-85; Am. Ord. 1862, passed 7-21-86; Am. Ord. 04-2500, passed 6-9-04; Am. Ord. 10-2652, passed 7-7-10) Penalty, see § 50.999

§ 50.024 MULTIPLE USERS ON SINGLE METER.

(A) In the event two or more residential lots, parcels of real estate, buildings, dwelling units, or business units discharging sanitary sewage, water, or other liquids into the city's sanitary sewerage system, either directly or indirectly, are users of water and the quantity of water is measured by a single meter, then in each case for billing purposes, the quantity of water used shall be averaged for each multiple user and §§ 50.022 and 50.023 shall apply to each of the multiple users. The purpose of this section is to ensure that each multiple user shall pay no less than the minimum charges on a monthly basis.

(B) In the case of trailer camps or parks, the number of dwelling units shall be interpreted as the maximum capacity for trailers in the park, plus any other dwelling units served through the meter.

(`81 Code, §50.24) (Ord. 1678, passed 1-8-79; Am. Ord. 1862, passed 7-21-86; Am. Ord. 10-2652, passed 7-7-10) Penalty, see § 50.999

§ 50.025 CHARGES FOR RESIDENTIAL USERS.

(A) In order that there shall be no sewerage service charge to residential water consumers for water used in lawn sprinkling, garden watering, and the like, the sewage service billing for each month shall be based on the actual monthly quantity of water used or consumed during the preceding month adjusted to exclude the months of June, July, August, and September. Averages resulting in fractions of 200 gallons shall be raised to the next whole number of 200 gallons in computing billing.

(B) Residential users of water and sewage service for the first time shall be billed the monthly minimum charge established in § 50.023 until a consumption record covering the months of October, November, December, January, February, March, April, and May is established.

(`81 Code, § 50.25) (Ord. 1678, passed 1-8-79; Am. Ord. 10-2665, passed 12-6-10) Penalty, see § 50.999

§ 50.026 NON-WATER USERS.

(A) In the event a lot, parcel of real estate, building, dwelling unit, or business unit discharging sanitary sewage, industrial wastes, water, or other liquids into the city's sanitary sewerage system, either directly or indirectly, is not a user of water supplied by the water utility serving the city, and the water used is not measured by a water meter, or is measured by a water meter not acceptable to the city, then the amount of water used shall be otherwise measured or determined by the city in order to ascertain the rate or charge provided in §§ 50.022 and 50.023.

(B) However, the owner or other interested party, at his expense, may install and maintain a meter acceptable to the city for this purpose.

(`81 Code, § 50.26) (Ord. 1678, passed 1-8-79) Penalty, see § 50.999

§ 50.027 DUAL WATER SUPPLY.

(A) In the event a lot, parcel of real estate, building, dwelling unit, or business unit discharging sanitary sewage, industrial wastes, water, or other liquids into the city's sanitary sewerage system, either directly or indirectly, is a user of water supplied by the water utility serving the city, and in addition uses water from another source which is not measured by a water meter, or is measured by a water meter not acceptable to the city, then the amount of water used shall be otherwise measured or determined by the city in order to ascertain the rate or charge provided by §§ 50.022 and 50.023.

(B) However, the owner or other interested party, at his expense, shall install and maintain a meter acceptable to the city for this purpose.

(`81 Code, § 50.27) (Ord. 1678, passed 1-8-79) Penalty, see § 50.999

§ 50.028 WATER NOT ENTERING SEWAGE SYSTEM.

(A) In the event a lot, parcel of real estate, building, dwelling unit, or business unit discharging sanitary sewage industrial wastes, water, or other liquids into the city's sanitary sewerage system, either directly or indirectly, uses water in excess of the quantity allowed for the applicable minimum charge per month, and it can be shown to the satisfaction of the city that a portion of the water as measured by the water meter does not and cannot enter the sanitary sewerage system, then the city may determine in the manner and by the method deemed practicable the percentage of metered water entering the sanitary sewerage system. This percentage, when determined, shall then constitute the basis of sewage service charges.

(B) However, the city in its discretion may require or permit the installation of additional meters at the expense of the owner or other interested party in such a manner as to determine the quantity of water actually entering the sewerage system, in which case the quantity of water used to determine the sewage service charge shall be the quantity of water actually entering the sanitary sewerage system as so determined.

(`81 Code, § 50.28) (Ord. 1678, passed 1-8-79) Penalty, see § 50.999

§ 50.029 EXTRA CHARGES.

(A) In order that the rates and charges imposed by this subchapter may be justly and equitably adjusted to the service rendered, the city shall have the right to base its charges not only on volume, but also on the strength and character of the sewage and wastes which it is required to treat and dispose of.

(B) The city shall have the right to measure and determine the strength and content of all sewage and wastes discharged, either directly or indirectly, into the city's sanitary sewerage system, in the manner and by the method it deems practicable in the light of the conditions and attending circumstances of the case, in order to determine the proper charge.

(C) Extra charges based on strength of the sewage and liquid wastes shall be made on the following basis.

(1) For suspended solids in excess of two pounds for each 1,000 gallons of sewage and wastes, an additional charge of $.20 per 1,000 gallons shall be made for each excess pound or fraction thereof.

(2) For five-day biochemical oxygen demand in excess of 1.75 pounds for each 1,000 gallons of sewage and wastes, an additional charge of $.20 per 1,000 gallons shall be made for each excess pound or fraction thereof.

(`81 Code, § 50.29) (Ord. 1678, passed l-8-79) Penalty, see § 50.999

Cross-reference:

Standard methods of analysis, see § 50.031

§ 50.030 RATE ADJUSTMENT.

To determine the strength of any sewage and wastes, samplings and analysis may be made from time to time whenever it is deemed desirable by the city. After charges have been established based upon the strength of sewage and wastes, the owner may request reconsideration of these charges by the city by submitting, if requested, an analysis of composite samples of the sewage and wastes certified by a registered engineer or a graduate chemist subject to the charges. The city may then adjust the charges to the rates required by the analysis or may recheck the findings by additional sampling and analysis. Requests for rate adjustment may be submitted no more than once every 12 months.

(`81 Code, § 50.30) (Ord. 1678, passed l-8-79) Penalty, see § 50.999

§ 50.031 STANDARD METHODS OF ANALYSIS.

The determination of suspended solids and five- day biochemical oxygen demand contained in the waste shall be in accordance with the latest copy of "Standard Methods of the Examination of Water, Sewage, and Industrial Wastes", as written by the American Public Health Association, and the Federation of Sewage and Industrial Wastes Association.

(`81 Code, § 50.31) (Ord. 1678, passed 1-8-79) Penalty, see § 50.999

§ 50.032 PROHIBITED WASTES.

The Board of Public Works and Safety is authorized to prohibit dumping of wastes into the city sewerage system which, in its discretion, are deemed harmful to the operation of the sewage treatment works, or to require methods effecting pre-treatment of the wastes to reduce the harmful characteristics to a point satisfactory to the Board.

(`81 Code, § 50.32) (Ord. 1678, passed 1-8-79) Penalty, see § 50.999

Cross-reference:

Unlawful disposal, see § 50.047

§ 50.033 WATER USED FOR FIRE PROTECTION.

Where a metered water supply is used for fire protection as well as for other uses, the city may, in its discretion, make any adjustments in the minimum charge and the use charge established by this subchapter that may be equitable.

(`81 Code, § 50.33) (Ord. 1678, passed 1-8-79) Penalty, see § 50.999

§ 50.034 USERS OUTSIDE CITY.

(A) The rates and charges fixed in this subchapter shall apply to lots, parcels or real estate, buildings, dwelling units, and business units located within the boundaries of the city.

(B) For service rendered by the sanitary sewerage system and sewage treatment works to lots, parcels or real estate, buildings, dwelling units, or business units located outside the boundaries of the city, the rates and charges, including the minimum charge, shall be 150% of those rates and charges established herein, and all other provisions of this subchapter shall be applicable to users located outside the boundaries of the city.

(C) All person or corporations, including survivors, heirs, or assigns who own lots, parcels or real estate, buildings, dwelling units or business units located outside the boundaries of the city and who desire and request services rendered by the sanitary sewage system and sewage treatment works must first consent in writing to waive their right of remonstrance against annexation by the city.

(D) The consent mentioned in division (C) above shall be substantially as follows:

"_____ of _____ (hereafter "Owners") jointly and severally, and after having had an opportunity to consult with an attorney of their choosing, hereby voluntarily and without duress enter into this Non-Remonstrance Agreement with the City of Shelbyville, Indiana, by and through its Board of Public Works and Safety (hereafter "City"), and agree as follows:

(1) The owners are the fee simple owners of certain real estate (hereafter "Real Estate"), which is described on the attached Exhibit A, incorporated herein by this reference.

(2) In consideration of the city allowing the owners to obtain municipal sewer service from the city, the owners hereby waive their right to remonstrate against the annexation of any or all of the real estate by the city for a period of 50 years from the date that this agreement is last executed by a party hereto. Owners understand that the rates and charges to maintain municipal sewer service, including the minimum charge, shall be 150% of those rates and charges established by city ordinance, and this rate shall continue until the annexation process is final.

(3) The owners hereby agree that this agreement shall be binding upon and inure to the benefit of their respective heirs, administrators, successors, assigns, and any and all subsequent owners of the real estate for the duration of this 50 year waiver period.

(4) This agreement shall be recorded by the city at the city's expense in the Office of the Recorder for Shelby County, Indiana, and shall be effective as of the date last executed by a party hereto."

('81 Code, § 50.34) (Ord. 1678, passed 1-8-79; Am. Ord. 00-2380, passed 12-18-00) Penalty, see § 50.999

§ 50.035 CITY SUBJECT TO RATES.

For the service rendered to the city, the city shall be subject to the same rates and charges as are provided by this subchapter, or to charges and rates established in harmony therewith.

('81 Code, § 50.35) (Ord. 1678, passed 1-8-79) Penalty, see § 50.999

Statutory reference:

City to pay established rates, see I.C. 36-9-23-24

§ 50.036 BILLING PROCEDURE.

(A) Rates and charges shall be prepared and billed by the city, and shall be collected in the manner provided by law.

(B) Rates and charges may be billed to the tenants occupying the properties served, unless otherwise requested in writing by the owners, but the billing shall not relieve the owners from liability in the event payment is not made.

(C) The owners of the properties served, which are occupied by tenants, shall have the right to examine the collection records of the city for the purpose of determining whether the rates and charges have been paid by the tenant; however, the examination shall be made at the office at which the records are kept and during the hours that the office is open for business.

('81 Code, § 50.36) (Ord. 1678, passed 1-8-79) Penalty, see § 50.999

Cross-reference:

Collection, see § 50.020

Enforcement of payment, see § 50.037

Statutory reference:

Collection of rates and charges, see I.C. 36-9-23-25, 36-9-23-26, 36-9-23-28, 36-9-23-30, 36-9-23-34

§ 50.037 ENFORCEMENT OF PAYMENT.

(A) *Fees; nonpayment; delinquency penalty; civil action to recover.* If fees assessed against real property under this chapter or any statute repealed by I.C. 19-2-5-30 (repealed September 1, 1981) are not paid within the time fixed by the municipal legislative body, they are delinquent. A penalty of 10% of the amount of fees attaches to the delinquent fees. The amount of the fee, the penalty, and a reasonable attorney's fee may be recovered by the Board in a civil action in the name of the municipality.

(I.C. 36-9-23-31)

(B) *Fees; nonpayment; creation of lien; priority; time of attachment; notice; subsequent owners; release.*

(1) Fees assessed against real property under this chapter or under any statute repealed by I.C. 19-2-5-30 constitute a lien against the property assessed. The lien is superior to all other

liens except tax liens. Except as provided in subsections (2) and (3), the lien attaches when notice of the lien is filed in the county recorder's office under I.C. 19-2-5-33.

(2) A fee is not enforceable as a lien against a subsequent owner of property unless the lien for the fee was recorded with the county recorder before the conveyance to the subsequent owner. If the property is conveyed before the lien can be filed, the municipality shall notify the person who owned the property at the time the fee became payable. The notice must inform the person that payment, including penalty fees for delinquencies, is due not less than 15 days after the date of notice. If payment is not received within 180 days after the date of the notice, the amount due may be expensed as a bad debt loss.

(3) A lien attaches against real property occupied by someone other than the owner only if the utility notified the owner within 20 days after the time the utility fees became 60 days delinquent. However, the utility is required to give notice to the owner only if the owner has given the general office of the utility written notice of the address to which his or her notice is to be sent.

(4) The municipality shall release:

(a) Liens filed with the county recorder after the recorded date of conveyance of the property; and

(b) Delinquent fees incurred by the seller; upon receipt of a varied demand in writing from the purchaser. The demand must state that the delinquent fees were not incurred by the purchaser as a user, lessee, or previous owner, and that the purchaser has not been paid by the seller for the delinquent fees.

(I.C. 36-9-23-32) (`81 Code, § 50.37) Penalty, see § 50.999

Cross-reference:

Collection, see § 50.020

Billing procedure, see § 50.036

Statutory reference:

Collection of rates and charges, see I.C. 36-9-23-25 through 36-9-23-28

§ 50.038 TAPPING AND CONNECTION CHARGES; DEFERRED PAYMENT.

(A) Tapping charges and lateral tap inspection charges shall be levied as shown in the Schedule of Wastewater Rates and Charges in § 50.023.

(B) An owner may be granted the privilege, upon application to the Board of Public Works and Safety, of paying the tapping charge or connection charge established by (A) above, in three equal annual installments. In the event of application for such a deferred payment plan, one-third of the total charge shall accompany the application and the remaining annual payments of principal shall be in an amount equal to the payment which accompanies the application. In the event the tapping charge or connection charge is not paid as required, the charge shall be collectible in the manner provided by state statute.

(`81 Code, § 50.38) (Ord. 1678, passed 1-8-79; Am. Ord. 92-2089, passed 11-16-92; Am. Ord. 04-2500, passed 6-9-04; Am. Ord. 10-2652, passed 7-7-10) Penalty, see § 50.999

Statutory reference:

Collection of rates and charges, see I.C. 36-9-23-25 through 36-9-23-28

§ 50.039 REVIEW OF RATES.

(A) The City Council shall review the sewage service rates charged for residences, industry, and buildings located in and about the city on an annual basis.

(B) The Superintendent of the Wastewater Treatment Plant upon filing his or her report with the City Council shall annually make a written recommendation to the Sewage Board on the rates to be charged to the local consumers. The Sewage Board shall forward the recommendations to the City Council with its recommendation. The recommendation reports shall include the Superintendent's analysis of the physical status of the Wastewater Treatment Plant; what, if any, unusual maintenance or repairs may be forthcoming during the upcoming year; and any other unusual matter that may affect the rates within the foreseeable future. The Superintendent shall further make a recommendation as to whether any change should be made in the rate structure or the general rates charged to the local consumers.

(`81 Code, § 50.39) (Ord. 1870, passed 8-19-86)